



UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 31 2004

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Ladas & Parry
26 West 61st Street
New York, NY 10023

Paper No. 24

In re Application of	:	DECISION ON PETITION
Jury V. T. Kanchzhen	:	TO WITHDRAW
Serial No. : 08/952,194	:	THE HOLDING OF
Filed : November 10, 1997	:	ABANDONMENT
For : Device for Transmitting a Natural Information	:	
Supply to a Biological Object	:	

This is a decision on petitioner's request filed April 17, 2002 and renewed request filed October 31, 2003 to review the holding of abandonment mailed April 5, 2002 for failure to file a proper response to the Office Action mailed 24 November 1999. The basis for petitioner's request is that per a Decision on a Request to Withdraw Action mailed April 25, 2001, a Notice to File Missing Parts of Application should have been mailed to applicant. Since, per requester, no such Notice was issued, no abandonment could occur, as there was no action to respond to.

A review of the file and prosecution history of the instant application indicates that a Final Rejection was mailed November 24, 1999. In response thereto, after the filing of appropriate extension of time requests and a Notice of Appeal, a request for the filing of a Continued Prosecution Application (CPA) was filed on August 30, 2000. The examiner then issued a new Final Rejection on September 25, 2000. On November 16, 2000, a request to withdraw the Action of September 25, 2000 was filed based on the fact that the request for the filing of CPA submitted August 30, 2000 did not include the appropriate filing fees and specifically revoked any prior authorization to charge fees except for extension of time fees. On April 25, 2001, applicants request was granted and indicated that a Notice to File Missing Parts of Application would be mailed. A Notice, albeit the wrong Notice, was mailed (see attached copy) on May 24, 2001. Rather than mailing a Notice to File Missing Parts of Application (CPA), a Notice of Improper CPA filing Under 37 CFR.1.53(d) was mailed. Further, the Notice that was mailed did not specify that the filing fees for a CPA were missing. Failure by applicant to take action regarding the Notice mailed May 24, 2001 triggered the abandonment of the instant application.

In view of the above, it is clear that the Notice of Abandonment mailed April 5, 2002 is in error as the wrong Notice was mailed on May 24, 2001 (it is immaterial whether applicant received the Notice or not as the wrong Notice was mailed, and it did not specify what was wrong with the filing of the CPA) and is hereby withdrawn.


To expedite prosecution, attached to this decision is a Notice to File Missing Parts of Application (CPA) setting forth that (1) the statutory basic fee for a CPA is missing, (2) it must be submitted along with the surcharge, and (3) applicant has two months from the mailing date of the Notice, which is the mailing date

of this decision, within which to file the appropriate indicated items, the time being extendable under 37 CFR 1.136(a). Failure to reply to the Notice will result in the abandonment of the application.

Summary: Holding of abandonment withdrawn.

Notice to File Missing Parts of Application (CPA) attached.

Two month period for response set to begin with mailing date of this decision.



John E. Kittie, Director
Technology Center 3700
Phone: (703) 308-0873

Attachments: Copy of Notice of Improper CPA Filing under 37 CFR 1.53(d) mailed April 24, 2001.
Notice to File Missing Parts of Application (CPA)

ak 3/26/04



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/952,194 11/10/97 TSZYAN KANCHZHEN

U011457-4

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

QZ11/0524

EXAMINER

SCHAETZLE, K

ART UNIT

PAPER NUMBER

3762
DATE MAILED:

17
05/24/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



DATE MAILED:

NOTICE OF IMPROPER CPA FILING UNDER 37 CFR 1.53(d)
No Filing Date Granted

The Continued Prosecution Application (CPA) request deposited on _____ is improper under 37 CFR 1.53(d) and has not been granted a filing date for reason(s) indicated below:

Any assertions that the above-mentioned CPA request is proper under 37 CFR 1.53(d) must be by way of petition directed to the attention of the Office of Petitions. Any such petition must be accompanied by the \$130.00 petition fee (37 CFR 1.17(i)). If the petition alleges that no defect exists, a request for refund of the petition fee may be included in the petition.

Any petition must be submitted within **TWO MONTHS** of the date of this notice (37 CFR 1.181(f)) or the application may be returned or otherwise disposed of and the filing fee, if submitted, will be refunded less the \$130.00 handling fee (37 CFR 1.21(n)). **THIS TIME LIMIT MAY NOT BE EXTENDED PURSUANT TO 37 CFR 1.136.**

- ☐ 1. The prior application is not a complete (37 CFR 1.51(b)) application or the national stage of a PCT international application that is in compliance with 35 U.S.C. 371.
- ☐ 2. The request for a CPA was not filed before the payment of the issue fee on the prior application. The issue fee was paid on the prior application on _____.
- ☐ 3. The request for a CPA was not filed before the abandonment of, or termination of proceedings on, the prior application. The prior application was abandoned, or proceedings terminated on _____.
- ☐ 4. A petition under 37 CFR 1.136(a) and appropriate fee are necessary to establish copendency between this CPA and the prior application.

☒ 5. OTHER:

Accepted via petition

A copy of this notice MUST be returned with the reply.

Direct the reply and any questions about this Notice to:

Sylvia Salvo
Examining Group 3762
605
(703) 30 - 1238



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/952,194	11/10/97	Jury V.T. KANCHEN	U 011457-4

DATE MAILED:

NOTICE TO FILE MISSING PARTS OF APPLICATION (CPA)
Filing Date Granted

The Continued Prosecution Application (CPA) request filed on 8/30/00 is entitled to a filing date under 37 CFR 1.53(d)(1). The CPA request, however, lacks the filing fee(s) and/or items indicated below.

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the fee(s), item(s), and any surcharge required below to avoid abandonment of this CPA. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The total amount owed by applicant is the sum of items 1(a) or (b), 2, and 3 (if checked) below.

☒ 1. The statutory basic filing fee is:

- ☒ missing.
☐ insufficient.

(a) Applicant must submit \$ 770.00 to complete the basic filing fee and the \$130.00 surcharge set forth in 37 CFR 1.16(e) (non-small entity), or \$ 385.00 to complete the basic filing fee as a small entity and the \$65.00 surcharge set forth in 37 CFR 1.16(e) and file a small entity statement under 37 CFR 1.27 claiming such status (if the prior application was entitled to small entity status and such status is still proper and desired, a new small entity statement is **not** required (37 CFR 1.28)).

(b) Applicant must submit \$ _____ to complete the basic filing fee as a small entity and the \$65.00 surcharge set forth in 37 CFR 1.16(e).

☐ 2. Additional claim fees of

\$ _____ (non-small entity) or \$ _____ (small entity) for _____ independent claims over 3.
\$ _____ (non-small entity) or \$ _____ (small entity) for _____ claims over 20.
\$ _____ (non-small entity) or \$ _____ (small entity) for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☐ 3. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

☐ 4. The CPA request is unsigned. Applicant must file a signed duplicate or ratification of the CPA request.

☐ 5. Other: _____

A copy of this Notice MUST be returned with the reply.

Direct the reply and any questions about this Notice to:

Andy Kashner

Examining Group 3700

(703) 308-1137